



Express Mail Label No. EV-103617041 US
Date of Deposit July 15, 2003
Docket No. 02-344-J

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) PATENTS
Dean Kerkhoff)
Serial No. Not yet assigned)
Filed: July 15, 2003)
For: PIANO KEY FINDER AND)
CHORD INDICATOR)

PETITION TO MAKE SPECIAL

MAIL STOP PATENT APPLICATION
P.O. Box 1450
Commissioner for Patents
Alexandria, VA 22313-1450

Sir or Madam:

Pursuant to 37 CFR 1.102, Applicant hereby petitions to accelerate the examination of the above application. A credit card form in the amount of \$130 is enclosed as the fee required by 37 CFR 1.17(h) §1.102. The above application presents claims directed to a single invention. Applicant hereby submits that he will make an election without traverse as a prerequisite to the grant of special status should the Office determine that all the claims presented are not obviously directed to a single invention. A pre-examination search was performed by Rosenberg, Klein & Lee, Patent Research Specialists, in the following Fields of Search: 84/470R, 471R, 473, 476-478, 613 and 637.

Copies of the following five (5) references deemed most closely related to the subject matter encompassed by the claims are enclosed:

1460 130.00 op
2003 WABDEL1 00000012 10620528

<i>Nelson</i>	4,960,029	October 2, 1990
<i>Malis</i>	3,668,967	June 13, 1972
<i>Papadopoulos</i>	6,031,172	February 29, 2000
<i>Bauer</i>	675,345	May 28, 1901
<i>Derrick</i>	5,386,757	February 7, 1995

The following is a discussion of the above listed references which points out, with the particularity required by 37 CFR 1.111 how the claimed subject matter is distinguishable over the references.

<i>Nelson</i>	4,960,029	October 2, 1990
---------------	-----------	-----------------

This reference is directed to a musical scale determining device. Refer to the FIGS. 1-5 showing the device 10 having a thin sheet material body 12 constructed of either paper or plastic or some other rigid material. Printed on the front surface 19 are a number of longitudinally oriented rows of musical notes. Two of the rows are located within an upper section 18 and two of the rows are located in a lower section 20. Located on the front surface 19 are a series of indicators 34 comprising a pointer that points either to the upper section or the lower section, or both. Located on the back surface 21 of the body 12 are vertical rows of musical notes, again located in an upper section 22 and a lower section 24. Formed within the back surface 38 of a cursor 23 are a series of transparent windows 40 for observing a single column of three notes within either an upper section or a lower section. This cursor is slidable and is used to determine the major and minor chords for different keys. Within the front surface 26 of the cursor 23 are also located a plurality of windows 28 with identifying indicia 30 as Roman Numerals I-VIII to denote major sharp and flat scales. Note that the cursor 23 is

also formed of thin sheet material and forms an internal chamber 37 into which the necked down section 17 of the body 12 is disposed.

The instant invention includes features not found in this reference. These features include the following: 1) the outer sleeve having a representation of a portion of a piano keyboard; 2) the second portion having a first series of markings, said first markings being sized and shaped to be visible through said second set of openings in said outer sleeve as said slide member is moved through said outer sleeve; 3) said first markings indicating piano keys associated with the chromatic scale associated with said selected musical key; and 4) the first markings indicating the piano keys associated with the chromatic scale will be visible through the second set of openings. Thus, the present invention may be distinguished from the *Nelson '029* patent.

The claimed subject matter relating to these distinguishing features is described in Claims 2 with the relevant clauses underlined:

2. A piano key finder and chord indicator, comprising:
 - an outer sleeve, said outer sleeve being formed of semi-rigid material and having a front surface, a back surface, top and bottom edges, first and second ends and an interior cavity; said interior cavity being open at said first and second ends of said outer sleeve; said outer sleeve having a representation of a portion of a piano keyboard and first and second sets of openings penetrating at least one of said front and rear surfaces;
 - a slide member, said slide member having first and second ends and being sized and shaped to fit slidably within said interior cavity;

said slide member having a first portion and a second portion;
 said first portion carrying alphabetic representations, said representations being
 sized and shaped to be visible through said first set of openings in said
 outer sleeve as said slide member is moved through said outer sleeve;
 said alphabetic representations illustrating a selected musical key, a chromatic
 scale, a major chord and a minor chord associated with said musical key;
 said second portion having a first series of markings, said first markings being
 sized and shaped to be visible through said second set of openings in said
 outer sleeve as said slide member is moved through said outer sleeve;
 said first markings indicating piano keys associated with the chromatic scale
 associated with said selected musical key; and
 whereby, when a user moves the slide member within said inner cavity of said
 outer sleeve, aligning one of the first set of openings in the outer sleeve
 with one of the alphabetic representations illustrating a selected musical
 key, the alphabetic representations for each note of the chromatic scale as
 well as major and minor chords associated with that selected musical key
 will be visible through the first set of openings and the first markings
 indicating the piano keys associated with the chromatic scale will be
 visible through the second set of openings.

The features described by these clauses are not found in the *Nelson* '029 patent.

Malis

3,668,967

June 13, 1972

This reference is directed to a chord indicator in the form of a slide rule device. Referring to the Figures, the device is comprised of a first elongated slide 2, a second elongated slide 4 carried within slide 2, and an outer elongated indicator 6 which is adapted to slidably receive and contain slides 2 and 4. Slide 2 is an elongated sleeve which surrounds slide 4, and indicator 6 is also an elongated sleeve which surrounds slide 4, as can clearly be seen in FIG. 2. Slide 2 has a series of indexing windows 1, 3 and 7 extending completely through the front face 10 at a location near the right end 5 thereof to show corresponding chord type identification. As seen in FIG. 1, the front face 10 of slide 2 also includes a plurality of apertures along its length, such as apertures 11, 12, 13 and 14, which are substantially equal in size to and are adapted to uncover spots 17, 18 and 19 of slide 4. Slide 2 also has imprinted along the lower edge of its front surface a series of characters 25 which represent the various notes in the scale. As can be seen in the Figures, manipulation of the slides permit identification of the chord name, title or selection of a particular chord, identification of the notes in that chord, the chord type, and other useful musical information.

The instant invention includes several features not found in *Malis*. As such, it should be patentable over this reference. These features include the representation of a portion of a piano keyboard and markings indicating piano keys associated with the chromatic scale associated with said selected musical key. These features, described by the clauses of Claim 2, *supra*, are not found in the *Malis* '967 patent.

Further, this invention requires "...a transparent portion overwhich is superimposed a representation of a fingerboard of a musical string instrument..." As the instant invention lacks a representation of a fingerboard, it will not infringe this reference.

Papadopoulos 6,031,172

February 29, 2000

This reference is directed to music teaching aid. Referring to FIG. 1, the music teaching aid comprises a cylindrical body 10, the periphery of which is substantially covered by a plurality of reference rings 13a-13g that have independent rotary movement. As seen, each ring is divided into twelve segments, each of which has an identification that represents the successive notes of the chromatic scale. As seen in FIG. 3, the strips are arranged in a manner that resembles your card. It is seen that appropriate manipulation of these rings with accompanying teaching aids permits one to identify all possible types of scales, major, minor and chord constructions.

The present invention includes several features not found in *Papadopoulos*, as such, it should be patentable over this reference. These features include an outer sleeve having a representation of a portion of a piano keyboard, first and second sets of opening penetrating at least one of the front and rear surfaces, a slide member, a first series of markings sized and shaped to be visible through said second set of openings in the outer sleeve as the slide member is moved through the outer sleeve and first markings indicating piano keys associated with the chromatic scale associated with the selected musical key. Thus the present invention may be distinguished from the *Papadopoulos* '172 patent. The claimed subject matter discussed above is described in Claim 2, illustrated *supra*.

In addition, this patent includes a "plurality of reference rings each independently rotatable about a common axis". As the present invention lacks reference rings, it will not infringe this reference.

Bauer

675,345

May 28, 1901

This reference is directed to a music chart circa 1901. Referring to the Figures, it is seen that there is a music chart with a face-plate A and a back plate A² which is ruled longitudinally to form a series of subdivisions or rows to indicate the principal major chords and corresponding minor chords which are identifying through the use of slider A¹ which can be appropriately slidingly displaced to identify major keys, minor key, dominant chords and tonic triads.

As discussed above, the present invention includes several features not found in this reference, namely, the representation of a portion of a piano keyboard, the markings indicating piano keys associated with the chromatic scale associated with the selected musical key and identification of all the notes in the scale for each key. As such, the present invention may be distinguished from *Bauer*. '345. The claimed subject matter discussed above is described in Claim 2, illustrated *supra*.

Derrick

5,386,757

February 7, 1995

This reference is directed to a universal musical scale, scale pattern, and chord indicator. Device housing 10 is of a slide-rule nature and is generally a hollow envelope-shaped enclosure open at either end and designed to function interdependently with any pre-selected sliding member 50. A number of sliding members 50 are provided with indicia indicative of the degrees of a musical scale respectively printed adjacent to each display window formed in housing 10. As seen, the combination of the primary housing 10 with a particular sliding member 50 provides information to identify certain characteristics within musical scales and assist in the identification of chords, tone indicators and other musical qualities.

The instant invention includes several features not found in *Derrick*. As such, it should be patentable over this reference. These features include the representation of a portion of a

piano keyboard and the first markings indicating piano keys associated with the chromatic scale associated with the selected musical key. These features, as described by the clauses of Claim 2, *supra*, are not found in the *Derrick '757* patent.

Further, this patent requires that "...the task of locating a multiplicity of ascending and descending points for learning finger positioning of the scale as it relates in a series of pattern voicings to a fingerboard of a fretted musical instrument.." As the instant invention does not require a fingerboard of a fretted musical instrument, it will not infringe this reference.

Based on the above analysis of the pre-examination search and discussion of the features of the instant invention, Applicant requests that the examination of the above application be accelerated.

Respectfully submitted,

BELASCO JACOBS & TOWNSLEY, LLP

By:


David A. Belasco
Registration No. 41,609
Attorney for Applicant

Dated: July 15, 2003